

15A NCAC 02D .0540 PARTICULATES FROM FUGITIVE DUST EMISSION SOURCES

(a) For the purpose of this Rule the following definitions apply:

- (1) "Excess fugitive dust emissions" means:
 - (A) fugitive dust is visible extending beyond the facility's property line; or
 - (B) upon inspection of settled dust on adjacent property, the Division finds that the dust came from the adjacent facility.
- (2) "Fugitive dust emissions" means particulate matter that does not pass through a process stack or vent and that is generated within plant property boundaries from activities such as unloading and loading areas, process areas, stockpiles, stockpile working, plant parking lots, and plant roads, including access roads and haul roads.
- (3) "Production of crops" means:
 - (A) cultivation of land for crop planting;
 - (B) crop irrigation;
 - (C) harvesting;
 - (D) on site curing, storage, or preparation of crops; or
 - (E) protecting crops from damage or disease conducted according to practices acceptable to the North Carolina Department of Agriculture and Consumer Services.
- (4) "Public parking" means an area dedicated to or maintained for the parking of vehicles by the general public.
- (5) "Public road" means any road that is part of the State highway system or any road, street, or right-of-way dedicated or maintained for public use.
- (6) "Substantive complaints" means complaints that are verified by the Division with physical evidence of excess fugitive dust emissions.

(b) This Rule does not apply to:

- (1) abrasive blasting covered by 15A NCAC 02D .0541;
- (2) cotton ginning operations covered by 15A NCAC 02D .0542;
- (3) non-production military base operations;
- (4) land disturbing activities that do not require a permit pursuant to 15A NCAC 02Q or are not subject to a requirement pursuant to 15A NCAC 02D, such as clearing, grading, or digging, and related activities such as hauling fill and cut material, building material, or equipment; or
- (5) public roads, public parking, timber harvesting, or production of crops.

(c) The owner or operator of a facility required to have a permit pursuant to 15A NCAC 02Q or a source subject to a requirement pursuant to 15A NCAC 02D shall not cause or allow fugitive dust emissions to cause or contribute to substantive complaints or visible emissions in excess of that allowed pursuant to Paragraph (e) of this Rule.

(d) If fugitive dust emissions from a facility required to comply with this Rule cause or contribute to substantive complaints, the owner or operator of the facility shall:

- (1) within 30 days upon receipt of written notification from the Director of a second substantive complaint in a 12-month period, submit to the Director a written report that includes the identification of the probable sources of the fugitive dust emissions causing complaints and what measures can be made to abate the fugitive emissions;
- (2) within 60 days of the initial report submitted pursuant to Subparagraph (1) of this Paragraph, submit to the Director a fugitive dust control plan as described in Paragraph (f) of this Rule; and
- (3) within 30 days after the Director approves the plan pursuant to Paragraph (g) of this Rule, be in compliance with the plan.

(e) The Director shall require that the owner or operator of a facility covered by Paragraph (c) of this Rule develop and submit a fugitive dust control plan as described in Paragraph (f) of this Rule if:

- (1) ambient air quality measurements or dispersion modeling as provided in 15A NCAC 02D .1106(e) show that the excess fugitive dust emissions cause the ambient air quality standard for particulates in 15A NCAC 02D .0400 to be exceeded; or
- (2) the Division observes excess fugitive dust emissions from the facility beyond the property boundaries for six minutes in any one hour using Reference Method 22 in 40 CFR 60, Appendix A.

(f) The fugitive dust control plan shall:

- (1) identify the sources of fugitive dust emissions within the facility;
- (2) describe how fugitive dust will be controlled from each identified source;
- (3) contain a schedule by which the plan will be implemented;

- (4) describe how the plan will be implemented, including training of facility personnel; and
 - (5) propose any methods that will be used to verify compliance with the plan.
- (g) The Director shall approve the plan if he or she finds that:
- (1) the plan contains all required elements in Paragraph (f) of this Rule;
 - (2) the proposed schedule contained in the plan will reduce fugitive dust emissions;
 - (3) the methods used to control fugitive dust emissions prevent fugitive dust emissions from causing or contributing to a violation of the ambient air quality standards for particulates; and
 - (4) the proposed compliance verification methods verify compliance with the fugitive dust control plan.

If the Director finds that the proposed plan does not meet the requirements of this Paragraph, he or she shall notify the owner or operator of the facility of any deficiencies in the proposed plan. The owner or operator shall have 30 days after receiving written notification from the Director to correct the deficiencies or submit a schedule describing actions to be taken and the time by which they will be implemented.

(h) If after a plan has been implemented, the Director finds that the plan fails to control excess fugitive dust emissions, he or she shall require the owner or operator of the facility to correct the deficiencies in the plan. Within 90 days after receiving written notification from the Director identifying the deficiency, the owner or operator of the facility shall submit a revision to his or her plan to correct the deficiencies.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 143-215.108(c)(7);
Eff. July 1, 1998;
Amended Eff. July 10, 2010; August 1, 2007;
Readopted Eff. September 1, 2019.*